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6 UNITED STATES DISTRICT COURT
7 FOR THE EASTERN DISTRICT OF CALIFORNIA
8 SACRAMENTO DIVISION

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10 DANIEL RICHARD BURKE,) CASE. No.: 2:21-CV-00734-EFB
11 Plaintiff,) STIPULATION AND ~~PROPOSED~~ ORDER
12 vs.) FOR ATTORNEY'S FEES PURSUANT
13 KILOLO KIJAKAZI, Acting commissioner) TO 28 U.S.C. SECTION 2412(d)
14 of the Social Security Administration,) [~~PROPOSED~~ ORDER]
15 Defendant.)
16

17 It is hereby stipulated by and between the parties through their undersigned counsel, subject to the approval
18 of the Court, that Daniel Richard Burke, will be awarded attorney fees in the amount of SIX THOUSAND SEVEN
19 HUNDRED and NO CENTS DOLLARS (\$6,700.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C.
20 section 2412(d). This amount represents compensation for all legal services rendered on behalf of Plaintiff by
21 counsel in connection with this civil action, in accordance with 28 U.S.C. section 2412(d).

22 After the Court issues an order for EAJA fees to Daniel Richard Burke, the Defendant will consider any
23 assignment of EAJA fees to John V. Johnson pursuant to Astrue v. Ratliff, 130 S.Ct. 2521, 2252-2253 (2010),
24 and the ability to honor any such assignment will depend on whether the fees are subject to any offset allowed under
25 the United States Department of Treasury's Offset Program. After the order for EAJA fees is entered, the Defendant
26 will determine whether they are subject to any offset.

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1 Fees shall be made payable to Daniel Richard Burke, but if the Department of the Treasury determines that
2 Daniel Richard Burke, does not owe a federal debt, then the government shall cause the payment of fees to be made
3 directly to John V. Johnson, pursuant to any assignment executed by Plaintiff. Any payment made shall be delivered
4 directly to John V. Johnson.

5 This stipulation constitutes a compromise settlement of Daniel Richard Burke request for EAJA attorney
6 fees and does not constitute an admission of liability on the part of the Defendant under EAJA. Payment of the
7 agreed amount shall constitute complete release from, and bar to, any and all claims that Daniel Richard Burke,
8 and/or John V. Johnson, INCLUDING COUNSEL'S FIRM, may have relating to EAJA attorney fees in connection
9 with this action. This award is without prejudice to the rights of John V. Johnson and his counsel's firm to seek
10 Social Security Act attorney fees under 42 U.S.C. Section 406(b) subject to the savings clause provisions of EAJA.

11 Respectfully Submitted,

12 DATED: October 26, 2022 / s / John V. Johnson
13 John V. Johnson
Attorney for Plaintiff

14 DATED: October 26, 2022 United States Attorney
15 Mathew W. Pile, WSBA No. 32245
Associate General Attorney
16 Office of Program Litigation, Office 7
Social Security Administration

17 By: / s / Mary Tsai
18 (as authorized by email on Oct. 25, 2022)
Special Assistant U.S. Attorney
19 Attorney for Defendant

20 **ORDER**

21 Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act fees,
22 Costs, and Expenses, IT IS ORDERED that fees and expenses in the amount of \$6,700.00 as authorized by 28
23 U.S.C. Section 2412, and costs in the amount of \$0.00 as authorized by 28 U.S.C. Section 1920, be awarded subject
24 to the Terms of the Stipulation.

25 Dated: December 9, 2022.



26 EDMUND F. BRENNAN
27 UNITED STATES MAGISTRATE JUDGE
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